

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MITSUBISHI MOTORS NORTH
AMERICA, INC.,

Plaintiff,

-against-

GRAND AUTOMOTIVE, INC. d/b/a
PLANET MITSUBISHI,

Defendant.
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RICHARD SIMON, ESQ.
DECLARATION

In Support of Rule 1.4 Motion to
Withdraw as Defendant's Counsel

Case No. 18-CV-814(SJF)(SIL)

RICHARD SIMON, ESQ. declares, pursuant to 28 U.S.C. 1746, the
truth of the following under the penalties of perjury:

1. After issue was joined by defendant's Answer/Counterclaim, and
after a Preliminary Injunction later was granted in favor of the plaintiff, the
defendant's prior counsel notified it that he didn't wish to continue as its
counsel due to disputes between them. Thereafter, defendant retained me,
and I filed my Notice of Appearance on 4/6/2018; no delay herein ensued.

2. I also represented Grand Automotive in its DMV Adjudicatory
Proceeding, commenced by its Petition challenging MMNA's denials of its two
relocation requests, consequently also challenging MMNA's termination of its
franchise. The DMV's Administrative Law Judge stayed MMNA's termination
of its franchise, and scheduled a final Hearing on the merits for last August.
However, this court, upon plaintiff's motion, stayed that proceeding pending
the final outcome herein, so presently a resolution of my client's challenge to
the reasonableness/propriety of the termination can only be had herein. All
discovery herein has continued, and is set to conclude by April 1, 2019.

3. Tests at New York Columbia Presbyterian Hospital, occasioned by negative symptoms and increased weakness, revealed stage 4 ["terminal"] prostate cancer---spread throughout my body, in all my bones. I had two pathological fractures of my thoracic vertebrae, and was able to walk only after successful/experimental spinal surgery. A new/miraculous "chemo" regime, which I must intake every day for the rest of my life (with other medications/injections), has prolonged my life, but the cancer "forever" remains throughout my body. Incredibly, I was soon able to again handle cases (as herein), if solely to seek to (favorably) conclude same for clients and to avoid undue delay/hardship for all involved.

3. I informed my client and opposing counsel of my diagnosis, and I continued herein to try to complete discovery and achieve full settlement of this matter. But recent correspondence from opposing counsel now makes it almost certain that full settlement cannot currently be attained. The strain of my continuing as counsel, in the procedural posture of this case, is beyond my capacity. My withdrawal as counsel will also serve my client's interests. My terminal cancer and debilitated condition necessitated my withdrawal.

4. My time expended (and expenses incurred) herein exceeded fees I received from my client, but we haven't had any fee dispute. I will not seek any retaining lien whatsoever. I have assured my client I will fully cooperate with its new counsel, including providing all relevant documents and also reviewing with new counsel all pertinent issues and background matters.

5. My client's President, Kanhiya Kinney Galani, attended the court's conference on 1/24/19 with me. He had been informed I would (orally) apply on the record for permission to withdraw as its counsel after other pending issues had been resolved/addressed. I truly believed he would then consent thereto, but instead, he refused to do so. The court thereupon directed my application to withdraw as defendant's counsel be submitted by this formal motion, returnable on 2/28/2019. This Declaration and the accompanying Notice of Motion are compliant therewith. My withdrawal is warranted and necessary, and it is also in the best interests of my client.

WHEREFORE, it is respectfully requested my application to withdraw as defendant's counsel be granted.

The undersigned verifies the truth and accuracy of the contents of this declaration, under the penalties of perjury.

Dated: January 27, 2019
New Haven, CT.

/s/ RS, ESQ.

RICHARD SIMON, ESQ.
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